



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under the Political Reform Act (the Act)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **November 21, 2019** at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m.** on **November 19, 2019**

BACKGROUND/OVERVIEW:

The Disclose Act (Assembly Bill 249 of 2017, c. 546), repealed and recast numerous advertisement and mass mailing provisions within the Act. Through the advice process, Commission staff has identified Disclose Act interpretation issues that may be addressed on the regulatory level. See discussion and proposed actions below.

REGULATORY ACTION:

The Commission may consider regulatory proposals to assist in the implementation of, and compliance with, the Disclose Act. At a minimum, Commission staff anticipates proposing the following regulations for amendment or adoption to address the identified issues.

Amend 2 Cal. Code Regs. Section 18435: Definition of Mass Mailing.

Section 84305(e) defines a mass mailing “sender” as the candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee who pays for the largest portion of expenditures attributable to the mass mailing which are reportable under the Act.

Next, some confusion has occurred as to the disclosure requirements for a mass mailing that is also an advertisement under the language in Section 84305(a)(2) and (c)(2) applicable to a committee, other than a candidate controlled committee established for an elective office for the controlling candidate or a political party committee.

Lastly, we have received requests from persons qualifying as a Section 82013(c) “major donor committee” as to whether invitations or announcements of a personal and not political nature require the Section 84305 mass mailing disclosures.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

To address these issues, Commission staff anticipates amendments to Regulation 18435, including, but not limited to:

- Non-substantive change to correct the “Section 84217” citation to “Section 84216.5” in (b) and designate the existing language as (b)(i).
- Add (b)(ii) to clarify the definition of “sender” under Section 84305(e) to include a candidate or committee who coordinates the expenditure with a person who pays for the communication and does not qualify as a candidate or a committee.
- Add subdivision (d) to clearly state that mass mailing disclosure requirements under Section 84305 do not apply to mailings that are advertisements under Section 84501 and are sent by a committee, other than a candidate controlled committee established for an elective office for the controlling candidate or a political party committee.
- Add paragraph (e), to clarify that a mass mailing does not include mailings sent by a Section 82013(c) “major donor committee” where the mailing is of a personal and not political nature.

Amend 2 Cal. Code Regs. Section 18450.1: Definitions. Advertisement Disclosure.

Staff proposes a non-substantive update in the citation reference, “Section 84501(a)(2)(E),” to “Section 84501(a)(2)(G)” to reflect the amendments to Section 84501(a) by Assembly Bill 2155 of 2018, c. 777.

Adopt 2 Cal. Code Regs. Section 18450.2: Advertisement Authorized and Paid for by a Committee.

Staff proposes language to clarify several separate circumstances whereby a communication is “authorized and paid for by” a committee for purposes of Section 84501. These include where:

- more than one committee pays for the communication;
- the committee coordinates the expenditure for the communication with a person who pays for the communication and does not qualify as a committee.
- where a committee disseminates an electronic media communication with nominal costs (except in the instance where the social media advertisement does not require disclosures under Section 84504.3).
- the committee or its agent makes a payment, promises to make a payment, or incurs an obligation for costs associated with the communication.

Adopt 2 Cal. Code Regs. Section 18450.3: Top Contributor Disclosure for Affiliated Entities.

Staff proposes language to establish that if a top contributor is a committee pursuant to Section 82013 and it qualifies as a top contributor as a result of aggregated contributions from other entities pursuant to Regulation 18215.1, the committee disclosing the top contributor must identify the contributor using the “name of filer” required by Regulation 18428 listed on the contributor’s most recent campaign statement.

Adopt 2 Cal. Code Regs. Section 18450.4: Video and Television Advertisement Disclosure.

Staff proposes language to establish that a disclosure must display for the length of the advertisement where the video or television advertisement is shorter than the required disclosure time applicable to the advertisement as set forth in Sections 84504.1, 84504.4, and 84504.5.

SCOPE: The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues.

FISCAL IMPACT STATEMENT:

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on any federal funding of any state entity or program.

AUTHORITY: Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE: The purpose of this regulation is to implement, interpret, and make specific Government Code Sections 82041.5 84305, 84501, 84502, 84503, 84504.1, 84504.4, 84504.5.

CONTACT: Any inquiries should be made to L. Karen Harrison, Fair Political Practices Commission, 1102 Q St., Suite 3000, Sacramento, CA 95811; telephone (916) 322-5660 or 1-866-ASK-FPPC, or by email at kharrison@fppc.ca.gov. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.